

Peter M. Rehon (SBN 100123)
Rogelio M. Ruiz (SBN 148500)
REHON & ROBERTS
A Professional Corporation
830 The Alameda
San Jose, CA 95126
Telephone: (408) 494-0900
Facsimile: (408) 494-0909

Attorneys for Plaintiffs and Judgment Creditors
KINGSLEY CAPITAL MANAGEMENT, LLC and
BRUCE PAINE KINGSLEY MD IRA ROLLOVER

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

Kingsley Capital Management, LLC, an
Arizona limited liability company, and Bruce
Paine Kingsley MD IRA Rollover,

Plaintiffs,

vs.

SDH Realty, Inc., a Kentucky corporation,

Defendant.

Kingsley Capital Management, LLC, an
Arizona limited liability company, and Bruce
Paine Kingsley MD IRA Rollover,

Plaintiffs,

vs.

Wilbur A. Huff, an individual,

Defendant.

CASE NO. CV 11 80 091 MISC

**PLAINTIFFS' AND JUDGMENT
CREDITORS' RESPONSE AND
REQUEST FOR CLARIFICATION RE:
ORDER OF REFERRAL AS TO PROOF
OF SERVICE OF ORDER OF
REFERRAL ON INTERESTED PARTIES
AND ORDER THEREON**

**[F.R.C.P. Rule 69; California Code of Civ.
Proc. §§708.120 and 708.130; Northern
District Local Rule 7-10]**

Judge: Honorable Jeffrey S. White

Kingsley Capital Management, LLC ("KCM") and Bruce Paine Kingsley MD IRA
Rollover ("Kingsley IRA"), Plaintiffs and judgment creditors, hereby submit this response and
clarification to the Order of Referral entered by the Court on June 8, 2011. The Order of Referral

specifies that Plaintiffs shall “serve a copy of this Order on all interested parties” and shall “file a proof of such service with the Court.”

Plaintiffs’ Application for Order of Examination of Brian Nelson Sly, Brian Sly and Company and Brian Sly and Company, Inc. is made pursuant to Rule 69 of the Federal Rules of Civil Procedure and Sections 708.120 and 708.130 of the California Code of Civil Procedure, and Local Rule 7-10 of the Local Rules for the Northern District. Rule 69(a)(1) of the Federal Rules of Civil Procedure provides in pertinent part that the “procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.” Section 708.120 of the California Code of Civil Procedure – the applicable state law allow for examinations of third parties – expressly provides for this application to be made on an ex parte basis and further requires only that the judgment debtors and the subject third parties be given notice of the order of examination if and when it is issued by the Court. (Calif. Code of Civ. Proc. §708.120(a).) On that basis, and in accordance with Northern District Local Rule 7-10, Plaintiffs have not provided notice of this application to the subject third parties, the judgment debtors or to any other person.

By this submission, Plaintiffs respectfully request clarification from the Court whether, notwithstanding F.R.C.P. Rule 69, California Code of Civil Procedure section 708.120 and Local Rule 7-10, Plaintiffs are ordered to serve the Order of Referral on judgment debtors and the subject third parties.

DATED: June 14, 2011

Respectfully submitted,

**Plaintiffs and Judgment Creditors
shall serve a copy of the referral order
if and when they are required to serve
the notice of order of examination.**

REHON & ROBERTS
A Professional Corporation

**It is so ordered this 16th day of June,
2011.**

/s/ Rogelio M. Ruiz

Rogelio M. Ruiz
Attorneys for Plaintiffs and
Judgment Creditors